

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION

ERIC SHERARD JONES,

v.

UNITED STATES OF  
AMERICA.

CRIMINAL FILE NO.  
4:18-CR-006-01-HLM-WEJ

CIVIL FILE NO.  
4:19-CV-0049-HLM-WEJ

ORDER

This case is before the Court on Petitioner's Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255 ("§ 2255 Motion") [36] and on the Final Report and Recommendation of United States Magistrate Judge Walter E. Johnson [48].

**I. Standard of Review**

28 U.S.C. § 636(b)(1) requires that in reviewing a magistrate judge's report and recommendation, the district court "shall make a de novo determination of those portions of the

report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). The Court therefore must conduct a de novo review if a party files “a proper, specific objection” to a factual finding contained in the report and recommendation. Macort v. Prem, Inc., 208 F. App’x 781, 784 (11th Cir. 2006); Jeffrey S. by Ernest S. v. State Bd. of Educ., 896 F.2d 507, 513 (11th Cir. 1990). If no party files a timely objection to a factual finding in the report and recommendation, the Court reviews that finding for clear error. Macort, 208 F. App’x at 784. Legal conclusions, of course, are subject to de novo review even if no party specifically objects. United States v. Keel, 164 F. App’x 958, 961 (11th Cir. 2006); United States v. Warren, 687 F.2d 347, 347 (11th Cir. 1982).

## **II. Background**

The Court finds that Judge Johnson accurately set forth the procedural background for this case. (Final Report & Recommendation at 1-2.) The Court incorporates that portion of

the Final Report and Recommendation into this Order as if set forth fully herein, and it adds only those background facts that are relevant to this Order.

On January 25, 2022, Judge Johnson issued his Final Report and Recommendation. (Docket Entry No. 48.) Judge Johnson recommended that the Court deny Petitioner's § 2255 Motion. (Id.)

As of the date of this Order, the Clerk's docket indicates that Petitioner has not filed Objections to the Final Report and Recommendation. (See generally Docket.) The time for filing Objections has expired, and the Court concludes that this matter is ripe for resolution.

### **III. Applicable Standard**

Judge Johnson accurately set forth the standards governing § 2255 Motions. (Final Report & Recommendation at 2-3.) The Court applies those same standards when evaluating Petitioner's

§ 2225 Motion. The Court further finds that no evidentiary hearing is required. (Id. at 3.)

#### **IV. Discussion**

The Court agrees with Judge Johnson that Petitioner failed to establish a viable ineffective assistance of counsel claim. (Final Report & Recommendation at 3-5.) Judge Johnson also correctly found that Petitioner's other claims are procedurally barred. (Id. at 5-6.) The Court therefore adopts the Final Report and Recommendation and denies Petitioner's § 2255 Motion. Further, for the reasons set forth in the Final Report and Recommendation, the Court declines to issue a certificate of appealability. (Id. at 6-7.)

#### **V. Conclusion**

ACCORDINGLY, the Court **ADOPTS** the Final Report and Recommendation of United States Magistrate Judge Walter E. Johnson [48] and **DENIES** Petitioner's § 2255 Motion [36]. The Court **DIRECTS** the Clerk to **CLOSE** the civil case associated

with that Motion: Civil Action File No. 4:19-CV-0049-HLM-WEJ. Finally, the Court **DECLINES** to issue a certificate of appealability.

IT IS SO ORDERED, this the 16th day of February, 2022.

/s/ Harold L. Murphy

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SENIOR UNITED STATES DISTRICT JUDGE